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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,328	07/23/2003	Sebastian Weitbruch	PD020074	7767
24498	7590	12/22/2008		
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EXAMINER				
CASCHERA, ANTONIO A				
ART UNIT		PAPER NUMBER		
2628				
MAIL DATE		DELIVERY MODE		
12/22/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/625,328

Applicant(s)

WEITBRUCH ET AL.

Examiner

Antonio A. Caschera

Art Unit

2628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 17-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 17-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. Receipt is acknowledged of a request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c) and a submission, filed on 11/03/08.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in the pending application.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim(s) 1-6 is/are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. The instant claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed

method steps, and therefore do not qualify as a statutory process. In particular, at least the applying a dithering function step of the claims is not tied to another statutory category.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-6 and 17-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In reference to claims 1 and 17, these claims have been amended to include the limitation of eliminating a dithering pattern from appearing to a viewer observing a moving object on a picture (see last 2 lines of claim 1 and last 3 lines of claim 17). The Examiner believes such a limitation to be new matter as the term, "eliminate" has not been described in the specification in such a way to reasonably convey to one of ordinary skill in the art the claimed invention. In particular, the specification explicitly utilizes the terms, "suppress," "suppressing," "suppressed," "suppresses" (see pages 9-10 of Applicant's specification) which is not seen as equivalent to the utilized term, "eliminate." The term, "eliminate" seems to indicate that the dithering pattern is completely removed for potential view by a user whereby the term of the specification seems to indicate that pattern is simply reduced for viewability by the user. Therefore, the Examiner

rejects claims 1-6 and 17-25 for failing to comply with the written description requirement creating a new matter situation. Note, claims 2-6 and 18-25 depend upon claims 1 and 17 respectively and therefore inherently suffer from the above issue.

5. Claims 17-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In reference to claims 17-25, the claims recite a device for processing video data and a multitude of “means” for performing the invention (see dithering, motion estimation and outputting means of claim 17). The specification however, does not enable one of ordinary skill in the art to make or use the invention since the specification does not explicitly define such means. The specification solely describes Figure 3 of the drawings with example “hardware” in a block diagram while further describing each of the means as “blocks” (see page 11 of Applicant's specification). Nowhere in the specification is there any marriage of such “blocks” to any processing hardware that one of ordinary skill in the art would have at least interpreted to perform such “means.” In other words, although the specification recites such “means” as blocks, it does not clearly define where (i.e. CPU, GPU, combination of both or some special processor) the hardware block implementation of the “means” is performed in the “device for processing video data.” Such lack of description of the specification does not enable one of ordinary skill in the art to make or use the invention and therefore such a rejection is warranted under 35 USC 112, 1st paragraph.

Response to Arguments

6. Applicant's arguments, see pages 6-17 of Applicant's Remarks, filed 11/03/08, with respect to 35 USC 103 rejection of claims 1-6 and 17-25 have been fully considered and are persuasive. The 35 USC 103 rejection of the claims has been withdrawn since amendments to the claim overcome the prior art. Further, a new prior art search has yielded no further, as per prior art rejection purposes, applicable prior art.

References Cited

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- a. Okamoto et al. (U.S. Patent 6,989,845)

Okamoto et al. discloses a motion picture pseudo contour correcting method and system.

- b. Kawakami et al. (U.S. Patent 6,661,470)

Kawakami et al. discloses a method for displaying a moving picture having a proper tone by changing a combination of subfields according to a motion vector.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Antonio Caschera whose telephone number is (571) 272-7781. The examiner can normally be reached Monday-Thursday and alternate Fridays between 7:00 AM and 4:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung, can be reached at (571) 272-7794.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

571-273-8300 (Central Fax)

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (571) 272-2600.

/Antonio A Caschera/

Examiner, Art Unit 2628

12/22/08